

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4597 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ANWAQR @ ANNU @ ANIYO

IBRAHIMBHAI KACHARA

Versus

COMMISSIONER OF POLICE

Appearance:

MR DEVNANI FOR YS LAKHANI for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 3.6.1996 passed by the Police Commissioner, Rajkot City, whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985. The detention order was executed on 3.6.1996 and since then the petitioner is under detention lodged at Jamnagar Jail, Jamnagar.

This Special Civil Application was filed on 2.7.1996 and on 3.7.1996 rule returnable for 19.8.1996 was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that three criminal cases under the were registered against the petitioner under the Prohibition Act and for the offences under I.P.C. under Chapter XVI and XVII. Besides this, the detaining authority has also taken into consideration the statements made by certain witnesses against the petitioner's anti-social activities. The petitioner has been found to be doing dadagiri and has been beating innocent persons and has been detained as a bootlegger as also a headstrong and dangerous person.

Although the detention order has been challenged on more than one grounds the learned counsel has submitted that no case of breach of public order was made out against the petitioner.

In view of the reasons given in the judgement dated 4.10.1996 passed in Special Civil Application No. 3879 of 1996 and the law laid down by the Supreme Court in the case of MUSTAKMIYA JABBARMIYA SHAIKH VS. M.M. MEHTA, COMMISSIONER OF POLICE reported in 1995(2) G.L.R. 1268 it is clear that the allegations and the material relied upon by the detaining authority against the petitioner do not constitute a case of breach of public order. It is at the most a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 3.6.1996 passed by the Police Commissioner, Rajkot City, Rajkot, is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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